

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANDREW ARNOLD,

Plaintiff,

**NOTICE OF MOTION**

Case No. 09-cv-5576 (DC) (THK)

-against-

1199 SEIU,

Defendant.


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PLEASE TAKE NOTICE that 1199 SEIU, properly known as "1199SEIU United Healthcare Workers East" ("1199" or "Union"), by its undersigned attorney, shall move the court before the Honorable Denise Cote at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York, 10007, on such day and time as counsel may be heard, for an Order pursuant to Rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure, dismissing the present Complaint in its entirety, together with costs, fees and such other and further relief as the Court deems just and proper. This motion to dismiss and motion for summary judgment is based on the Complaint being barred by the applicable statute of limitations, by the failure of the Plaintiff to exhaust internal union remedies, and its failure to state facts to support a breach of the Union's duty of fair representation.

PLEASE TAKE FURTHER NOTICE that any opposing affidavits and answering memoranda shall be served within ten business days after service of these moving papers.

Dated: June 29, 2009  
New York, New York

LEVY RATNER, P.C.

A handwritten signature in black ink, appearing to read "Richard Dorn", is written over a horizontal line.

By: Richard Dorn (RD1076)  
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